NO. 87-1453

Supreme Court, U.S.
FILED
FEB 11 1988
JOSEPH F. SPANIOL, JR.
CLERK

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1988

Re: DAVID C. ROBERTS, petitioner,

v.
Superior Court of California, Los Angeles, Respondent, and
MARION E. GUBLER, TERRY B. STEVENSON,
JUDY WILLIAMS-SMITH, TAKEO KAWAMOTO,
PHILLIP T. DUNNE, MARSHAL ANGEL A. MEINA, TOM L. TIBOR, AVRUM S. HARRIS,
and DOES 1 through 300, et al.

Real Parties in Interest

PETITION FOR WRIT OF CERTIORARI

TO THE

APPELLATE DEPT OF THE SUPERIOR COURT

David C. Roberts
c/o Burbank Jail
272 E. Olive Avenue
Burbank, CA 91502

COPY

QUESTIONS PRESENTED FOR REVIEW

1. Is a DE JURE Citizen under Article IV, U. S. Constitution, who has not resided or domiciled outside the geographical boundaries of the several states, be subject to the jurisdiction of the State excise tax which is based upon the authority of the national government to tax its citizens, on a relationship between a de facto citizen and the United States (Article I, sec 8, clause 17)?

2. Can a De Jure Citizen under Article IV, U. S. Constitution, who has been denied COUNSEL OF CHOICE be incarcerated?

3. Can a De Jure Citizen under Article IV, U. S. Constitution, who has been denied DUE PROCESS (13 page trial transcript missing), be incarcerated without a new trial?

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NO._____

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1988

DAVID C. ROBERTS Petitioner,

v.

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MARION E. GUBLER, TERRY B. STEVENSON,

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PETITION FOR WRIT OF CERTIORARI

TO THE

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PRAYER

TO THE HONORABLE CHIEF JUSTICE AND ASSOCIATE JUSTICE OF THE SUPREME COURT OF THE UNITED STATES:

May it please the court:

The petitioner David C. Roberts, respectfully prays that a writ of certiorari issue to review the judgment of the Superior Court of the County of Los Angeles.

OPINION BELOW

The Appellate Department of the Superior Court, State of California for the County of Los Angeles entered its Memorandum Judgment No. CR A24730 on August 26, 1987.

JURISDICTION

Article IV Constitution of the United States and Articles IV, V, IX, and X in the bill of rights.

TO: THE HONORABLE CHIEF JUSTICE RHEINQUIST, and to the HONORABLE ASSOCIATE JUSTICES of the Supreme Court of the United States:

COMES NOW THE PETITIONER, David C. Roberts, under Article IV, Sec 2, Cl 1, U. S. Constitution, In Propria Persona, and respectfully requests this Court grant a Writ of Certiorari following the denial by the California Supreme Court of his petition for review.

This Petition is filed to settle several substantive questions of law. Correspondingly, this case is one of first impression.

STATEMENT OF FACTS

The Apellant, David C. Roberts has a vested Right by birth to be a "Citizen of the several States" (Article IV, Sec 2, Cl 1, U.S. Constitution) as I have revoked and rescinded all contracts. See Frederic Bastiat, The Law, Pg. 5-6; 16 Am. Jur., 356.

STATEMENT OF THE CASE

Petitioner/Appellant is a De Jure Citizen of the State of Colorado, who now is an inhabitant of the State of California under Article IV, Sec. 2, Cl. 1 of the Constitution for the United States of America and thus is under the full protection of the Constitution of California (1849) and not a de facto resident alien ("Citizen of the United States") under the Fourteenth Amendment of the Constitution for the United States. Defendant was brought forth from custody by the jailer to the Court, after being charged and jailed for contempt of court stemming from a charge based on California Vehicle Code, Municipal Case No. M 74190, where all charges were immediately dismissed, and then, defendant was immediately arraigned on four (4) counts of violation of Section 19401 of Revenue & Taxation Code.

Therefore, the Court is in error in that they stated they had a voluntary appearance and jurisdiction in Revenue & Taxation Code under Penal Code Sec. 1462 as Defendant was still in custody and thus all appearances in the instant case are Special and not General.

Further, the Plaintiff Franchise Tax Board never alleged or proved in the original complaint they had jurisdiction, an omission that is fatal. Correlatively, the record is void of compliance with Revenue Code Sec. 18832, therefore depriving the Court of jurisdiction. The State has no jurisdiction over a De Jure Citizen of the several states (Article IV, Sec. 2, Cl. 1, U. S. Constitution), who did not appear voluntarily. See United States of America v. Narciso, 446 F. Supp. 252; Wlm Malloy

v. Patrick J. Hogan, 378 US 1; Justice Dickerson in State v. Doherty, 60 ME 504, 509 (1872).

The trial transcript of May 29, 1986, states at page 13 at lines 19 thru 21:

> "The Court: I didn't give him anything other than the fact that he wanted them to be there. They are not counsel."

There was no counsel of choice.
Article VI, Bill of Rights.
Gideon v. Wainright, 372 U.S. 335;
Burgett v. Texas, 389 U.S. 109;
Mempha v. Rhay, 389 U.S. at 128;
Argersinger v. Hamlin, 407 U.S. 25 at 37.

By the admission of the attorney for the people, "The People are in possession of a 13-page transcript which is defective." With this admission I contend that I have not been afforded "DUE PROCESS OF LAW."

See: People v. Chessman, 35 C2d. 455, 218 P2d. 769, 19 ALR2d 1084 (1950); and People v. Lantz, 265 CA2d 5, 71 Cal Rptr 188, (1968).

The Court lacks subject matter jurisdiction In Personam, in that the State has never alleged nor proven on the record, that I am a "resident" under the Fourteenth Amendment of the U. S. Constitution,

nor that I am not a Citizen of the several states.

Subject matter jurisdiction cannot be waived.

> People v. Jackson, 150 Cal App 3d Supp. 1, 7; Reynolds v. Stockton, 140 U.S. 254, 268; Hagens v. Lavine, 415 U.S. 533; Owens v. The City of Independence,445 U.S. 622; Johnson v. Zerbst, 304 U.S. 458, 468; Standard v. Olsen, 74 S.Ct. 768.

Petitioner from the beginning has pled No In Personam jurisdiction, as all unilateral, adhesion, quasi, in law or fact or implied contracts have been revoked and rescinded and the Revocations of Power of Attorney are recorded at the Los Angeles County Recorders Office. See Bonacci v. Massachusetts Bonding and Insurance Co., 58 Ca2d 657, 664, 137 P2d. 487.

REASON FOR GRANTING THE WRIT

THIS PETITION IS AN OPPORTUNITY FOR THIS COURT TO REESTABLISH THE CONSTITUTIONAL CONCEPTS OF LIBERTY THAT WAS INSTITUTED BY OUR FOUNDING FATHERS, VOID THE USE OF CONSTRUCTIVE FRAUD THAT IS

SLOWLY DESTROYING THE AMERICAN WAY OF LIFE AND TO INSTALL GUIDANCE TO THE LOWER COURTS WITH RESPECT TO THE ISSUE OF STATUS, ESPECIALLY WHERE THE PETITIONER IS DELIBERATELY DEFRAUDED OF HIS STATUS AS A DE JURE CITIZEN UNDER ARTICLE IV, [2,]1 OF THE UNITED STATES CONSTITUTION, BY LEGISLATIVE FIAT FOR THE PURPOSE OF RAISING A REVENUE, THE CONSTITUTION DEMANDS THAT HIS STATUS AND LIBERTY BE RESTORED.

CONCLUSION

It is for the foregoing reasons and established facts, Petitioner David C. Roberts respectfully requests that a Writ of Certiorari issue to review the judgement of the Superior Court.

Dated: Feb. 23, 1988

Respectfully submitted

David C. Roberts

David C. Roberts
c/o Burbank Jail
272 E. Olive Ave
Burbank, CA 91502

VERIFICATION

I, David C. Roberts, have read the foregoing declaration and declair under the penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge and belief.

Dated: Feb 23, 1988

David C. Roberts

David C. Roberts

APENDIX A

ORDER DENYING REVIEW

AFTER JUDGEMENT LY THE COURT OF APPEAL

2nd District, No.B030168

S002653

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

IN BANK

DAVID C. ROBERTS, Petitioner,

V.

APPELLATE DEPARTMENT, SUPERIOR COURT OF THE COUNTY OF LOS ANGELES, Respondent;

PEOPLE et al., Real Parties in Interest.

Application for stay DENIED.

Pitition for review DENIED.

SUPREME COURT FILED NOV 18,1987
Leurence P. Gill, Clerk

LUCAS
Chief justice

APENDIX B

APPELLATE DEPARTMENT OF THE SUPERIOR COURT STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff and Respondent,

vs.

DAVID C. ROBERTS,

Defendant and Appellant.

Superior Ct. No. CR A24730
Municipal Court of the Burbank Judicial Dist. No. M 74540
MEMORANDUM JUDGMENT

This cause having been submitted for decision, and having been fully considered, judgment is ordered as follows:

The Judgment is affirmed.

The trial court had both subject matter and territorial jurisdiction over defendant in conducting criminal proceedings against defendant and finding defendant guilty of the charged offenses. (People v. Jackson) (1983) 150 Cal.App.3d

Apendix C.

FILED SEPTEMBER 22 1987
Allen Hardey, Deputy

APPELLATE DEPARTMENT OF
THE SUPERIOR COURT
STATE OF CALIFORNIA,
COUNTY OF LOS ANGELES

PEOPLE OF THE STATE OF CALIFORNIA, PLANTIFF AND RESPONDENT, VS. DAVID C. ROBERTS, DEFENDENT AND APPELLANT.	) Super.Ct.CR A24730) Municipal Ct. of the) Burbank Judicial Dist) No. M 74540) ORDER DENYING) REHEARING AND) CERTIFICATION

THE COURT*

The petition of defendent/ appellant for a rehearing after judgment of this court on appeal or, in the alternate, certification of cause to the Court of Appeal in the above-entitled case have been filed and having been filed and having been duly considered,

Said petition is hereby denied.

Before Cooperman, P.J., Reese,J., and Newman, J.

APENDIX D

OFFICE OF THE CLERK
COURT OF APPEAL
STATE OF CALIFORNIA

Second Appellate District
Robert N. Wilson, Clerk
Division: 5 Date: 9/30/87

David C. Roberts
328 E. Tujunga Avenue
Burbank, Ca.

RE: Roberts/ David C.
vs.
Appellate Department of Superior Court
People of the State of California
2 Criminal B030168
Los Angeles No. CRA024730

THE COURT:

The petition for writ of Mandate is denied.

NO._____

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1988

DAVID C. ROBERTS Petitioner,

Vs.
Superior Court of CALIFORNIA,
Los Angeles, Respondent,and
MARION E. GUBLER, TERRY B. STEVENSON,
JUDY WILLIAMS-SMITH, TAKEO KAWAMOTO,
PHILLIP T. DUNNE, MARSHAL ANGEL A.
MEINA, TOM L. TIBOR, AVRUM S. HARRIS,
and DOES 1 through 300, et al.
Real Parties in Interest

CERTIFICATE OF SERVICE

---

1. That I, MICHAEL W. MASON , declair under the laws of the United States of America;

That I am a Citizen of California, and of the several states under Article IV, {2 }1,U.S. Constitution, and not a citizen of the United States (District of Columbia) or a resident alien in California; that I am an inhabitant of the 2nd Judicial District of California · located in Los Angeles County, State of California.

That on Jul 23 ,1988, service of

the following document,(Petition For Writ of Certiorari) was made on the following:by mailing 3 copies to the following parties adressed as follows;

Marion E. Gubler
300 E. Olive Ave
Burbank, Ca. 91502

Terry B. Stevenson
275 E. Olive Ave
Burbank, Ca. 91502

Phillip t. Dunn
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Burbank, Ca. 91505

Angel A. Meina
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Supreme court of California
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San Francisco, Calif. 94102

Appellate dept of
Superior Court Room 607
111N. Hill St.
Los Angeles, Calif. 90012

Court of Appeal
3580 Wilshire Blvd Suite 301
Los Angeles, California 90010

2. The above named parties are the only ones required to be served.

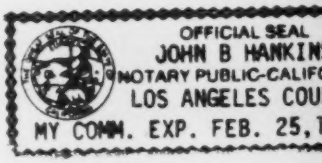
3. I furthur state to the best of my knowledge that the courts original and copies of these documents were adressed and mailed to this Court

Dated: 2-23, 1988

M. W. Mason

Seal. M. W. Mason
2nd Judicial District
7926 Beckett St.
Sunland, California

Subscribed and sworn to before me,
John B. Hankins, Notary Public, this
23rd day of February, 1988.



John B. Hankins

John B. Hankins